

² By Public Notice DA 04-36 dated January 9, 2004, the Wireline Competition Bureau established February 9, 2004 as the deadline for filing comments on the Petition and March 1, 2004 as the deadline for filing reply comments.

“reverse billing,” “reverse toll billing” or “wide area calling” (collectively hereinafter “WAC”) arrangements to wireless carriers operating in Puerto Rico. PRTC asserts that WAC arrangements allow wireless providers to adopt alternative arrangements in order to avoid having wireline customers pay toll charges when calling designated wireless numbers. Its Petition seeks a determination that the November 20, 2003 order is inconsistent with federal porting and pooling requirements and will result in unreasonable discrimination, and thus is preempted by the Commission’s pooling and porting rules and by Section 202 of the Communications Act.

The Joint Paging Commenters do not concede that PRTC is correct even with respect to CMRS carriers that *are* subject to Local Number Portability (LNP) and Thousand Number Pooling (TNP) obligations. However, paging carriers are *not* subject to LNP and TNP obligations; and there is accordingly no basis whatsoever for preempting PRTC’s provision of WAC arrangements to paging carriers.

The Commission’s LNP rules explicitly state that “*only* the systems that satisfy the definition of covered CMRS are required to provide number portability.” 47 C.F.R. §52.31(a).

(Emphasis added). In turn, “covered CMRS” is defined to mean, in relevant part:

broadband PCS, cellular, and 800/900 MHz SMR licensees that hold geographic area licenses or are incumbent SMR wide area licensees, and offer real-time, two-way switched voice service, are interconnected with the public switched network, and utilize an in-network switching facility that enables such CMRS systems to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

47 C.F.R. §52.21(c).

Paging carriers plainly are not “broadband PCS, cellular [or] 800/900 MHz SMR licensees,” nor do they offer “real-time, two-way switched voice service” as the definition of “covered CMRS” requires. Indeed, when it first adopted the requirement that some wireless carriers provide LNP to their customers, the Commission specifically noted that paging carriers are ex-

empt from this obligation.³ Similarly, TNP obligations apply *only* to “carriers capable of providing local number portability”. 47 C.F.R. §52.20(b).

Therefore, even if PRTC’s position were otherwise well founded (which the Joint Paging Commenters do *not* concede), it would not justify preemption of WAC offerings to paging carriers. Whatever difficulties PRTC claims in determining whether a particular number is currently wireless or wireline simply do not apply to carriers not subject to number portability. Since paging carriers do not port numbers or receive numbers ported from other carriers, the numbers assigned to paging carriers are and remain assigned to wireless networks. The provision of WAC arrangements to paging carriers remains as feasible now as before wireline-to-wireless LNP became effective, and there is no justification for disturbing those arrangements.

PRTC’s analysis is entirely too glib and the relief it requests is, at best, entirely too broad. Accordingly, its petition should be denied.

Respectfully submitted

AMERICAN ASSOCIATION OF PAGING
CARRIERS

s/Kenneth E. Hardman
1015 – 18th Street, N.W., Suite 800
Washington, DC 20036
Telephone: (202) 223-3772

ALLIED NATIONAL PAGING
ASSOCIATION

s/Leon M. Bloomfield
c/o Wilson and Bloomfield, LLP
1901 Harrison Street, Suite 1620
Oakland, CA 94612
Telephone: (510) 625-8250

METROCALL HOLDINGS, INC.

s/Federick M. Joyce
s/Christine McLaughlin
c/o Venable
1201 New York Avenue, N.W., Suite 1000
Washington, DC 20005
Telephone: (202) 513-4653

³ *In the Matter of Telephone Number Portability (First Report and Order and Further Notice of Proposed Rule-making)*, 11 FCC Rcd 8352, 8433 (FCC 1996) (“We specifically exclude at this time paging and other messaging services, and the following CMRS providers as listed in Part 20 of our rules: Private Paging, Business Radio Services, Land Mobile Systems on 220-222 MHz, Public Coast Stations, Public Land Mobile Service, 800 MHz Air-Ground Radio-Telephone Service, Offshore Radio Service, Mobile Satellite Services, Narrowband PCS Services”).

ARCH WIRELESS OPERATING COMPANY, INC.
s/Paul H. Kuzia
Executive Vice President,
Technology and Regulatory Affairs
1800 West Park Drive, Suite 250
Westborough, MA 01581
(508) 870-6700

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